

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JEREMIAH ORNER,

Plaintiff

v.

AMAZON.COM.DEDC LLC,

Defendant

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CIVIL ACTION NO.:

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Jeremiah Orner, a resident of Cumberland County, Pennsylvania, by and through his attorneys, brings this civil action for damages against the above named Defendant, Amazon.com.DEDC LLC, demands a trial by jury, and complains and alleges as follows:

JURISDICTION AND VENUE

1. Jurisdiction of the claims set forth in this Complaint is proper in this judicial district pursuant to the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601, *et seq.* (the “FMLA”), and 28 U.S.C. §§1331, 1343 and 1367.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to these claims occurred in this judicial district.

THE PARTIES

3. Plaintiff, Jeremiah Orner (“Mr. Orner” or “Plaintiff”), is an adult individual residing at 114 College Hill Road, Enola, Cumberland County, Pennsylvania.

4. Defendant, Amazon.com.DEDC LLC (“Amazon”), is a Delaware limited liability corporation which operates from a business location at 2 Ames Drive, Carlisle, Cumberland County, Pennsylvania..

5. During the period of Plaintiff’s employment, Amazon was an “employer” as defined under § 2611(4) of the FMLA because it engaged in commerce or an industry or activity affecting commerce and employed 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding year.

ADMINISTRATIVE PROCEEDINGS

6. On or about July 18, 2017, Plaintiff filed a Complaint with the Pennsylvania Human Relations Commission (“PHRC”).

7. More than one year has passed since the filing of Plaintiff’s PHRC complaint, thus Plaintiff’s state claims are ripe for filing pursuant to Section 12(c) of the Pennsylvania Human Relations Act (“PHRA”), 42 P.S. § 951, *et seq.*

8. All necessary and appropriate administrative prerequisites to this action have occurred.

STATEMENT OF FACTS

9. Mr. Orner was hired by Defendant on or about April 1, 2011, at its warehouse location in Carlisle, Pennsylvania. By the time of the events described hereinafter, Mr. Orner had been promoted to the position of Inventory Control.

10. In or about 2011, Mr. Orner developed constant pain in his left foot, which grew gradually worse until Mr. Orner sought treatment for and was diagnosed with Morton's Neuroma in or around April 2017.

11. Though Mr. Orner's condition was manageable, it was greatly aggravated by spending prolonged time on his feet.

12. Mr. Orner's job duties as Inventory Control required him to spend his entire shift on his feet, which aggravated his condition.

13. In addition, Mr. Orner was frequently required by Defendant to work mandatory overtime.

14. As a result of this condition, Mr. Orner sought the reasonable work accommodation of only working eight (8) hours per day, forty (40) hours per week.

15. Mr. Orner properly submitted this request, along with the necessary medical documentation, to Defendant, which granted the accommodation for a limited period of approximately sixty (60) days.

16. In addition, Mr. Orner requested FMLA paperwork from Defendant, as it became clear that he would require FMLA leave in order to treat his conditions.

17. On or about June 28, 2017, as Mr. Orner was in the process of completing his FMLA paperwork and resubmitting documentation for the extension of his reasonable accommodation, Defendant terminated Mr. Orner on a pretext.

18. Defendant's discrimination based upon Mr. Orner's actual disability, record of a disability, and/or perceived disability, and his request and/or application for FMLA leave, including his termination, violated Mr. Orner's rights under the FMLA and the PHRA.

COUNT I

Violation of the FMLA – Interference with FMLA Rights

19. All prior paragraphs are incorporated herein as if set forth fully below.

20. Mr. Orner had the right under the FMLA to twelve weeks of leave in a fifty-two week period because of his serious health condition.

21. The FMLA prohibits an employer from retaliating against an employee for exercising his FMLA rights.

22. Defendant violated Mr. Orner's FMLA rights by terminating him because he had requested and/or applied for FMLA leave as a result of his condition.

23. Defendant's FMLA violation was willful because Defendant either knew or showed reckless disregard for the matter of whether its conduct was prohibited by the FMLA.

WHEREFORE, Plaintiff, Jeremiah Orner, seeks judgment in his favor and against Defendant, Amazon.com.DEDC LLC, for (a) backpay and benefits; (b) reinstatement and/or front pay and benefits in lieu of reinstatement; (c) interest on his monetary losses at the prevailing rate; (d) liquidated damages; (e) attorneys' fees and costs; and (f) such legal and/or equitable relief as allowed by law.

COUNT II

PHRA Violations

24. All prior paragraphs are incorporated herein as if set forth fully below.

25. This is an action arising under the provisions of the PHRA and this Court has and should exercise pendant jurisdiction over the same because the cause of action complained of in this Count II arises out of the same facts, events, and circumstances as Count I, and therefore judicial economy and fairness to the parties dictates that this Count be brought in the same Complaint.

26. Mr. Orner is within the protective class of individuals as designated by the PHRA because he was disabled and/or had a record of a disability as a result of his Morton's Neuroma.

27. Mr. Orner was able to perform the essential functions of his job with a reasonable accommodation.

28. The PHRA prohibits employers from discriminating against employees because of a disability and/or a record of a disability.

29. Defendant violated the PHRA and committed illegal discrimination by terminating Mr. Orner because he sought the reasonable accommodation of working eight (8) hours a day forty (40) hours a week, and not working overtime as a result of his condition.

30. The illegal discrimination is based on whole or in part upon Mr. Orner's disability and/or record of a disability.

31. As a direct and proximate result of the conduct of Defendant in violating the PHRA by discriminating against Mr. Orner on the basis of his disability and/or record of a disability, Mr. Orner has been permanently and irreparably harmed and damaged and has and will continue to lose benefits of employment such as lost earnings, lost employment benefits, and non-economic damages in the form of embarrassment, humiliation, and anxiety.

WHEREFORE, Plaintiff, Jeremiah Orner, respectfully prays that judgment be entered in his favor and against Defendant, Amazon.com.DEDC LLC, and grant such relief as may be appropriate, including (a) backpay and benefits; (b) reinstatement and/or front pay and benefits in lieu of reinstatement; (c) interest on his monetary losses at the prevailing rate; (d) compensatory damages; and (e) attorneys' fees and costs, and for such other such other and further relief provided by the PHRA.

DEMAND FOR JURY

Pursuant to Federal Rule of Civil Procedure 38(b) and otherwise, Plaintiff respectfully demands a trial by jury.

Respectfully submitted,

Weisberg Cummings, P.C.

~~May 7, 2019~~ May 9, 2019
Date

/s/ Steve T. Mahan

Steve T. Mahan (PA 313550)
smahan@weisbergcumplings.com

/s/ Stephen P. Gunther

Stephen P. Gunther (PA 313550)
sgunther@weisbergcumplings.com

/s/ Derrek W. Cummings

Derrek W. Cummings (PA 83286)
dcummings@weisbergcumplings.com

/s/ Larry A. Weisberg

Larry A. Weisberg (PA 83410)
lweisberg@weisbergcumplings.com

2704 Commerce Drive, Suite B
Harrisburg, PA 17110
(717) 238-5707
(717) 233-8133 (FAX)

Counsel for Plaintiff